1 Pillar Two

Schedule 1 makes amendments to F(No.2)A 2023 in relation to multinational top-up tax (including amendments to implement the UTPR within the meaning of the Pillar Two rules) and in relation to domestic top-up tax.

SCHEDULE 1

Section 1

PILLAR TWO

PART 1

INTRODUCTION

1 F(No.2)A 2023 is amended in accordance with—

(a) Part 2 of this Schedule (which contains amendments designed to implement the UTPR within the meaning of the Pillar Two rules), and

(b) Part 3 of this Schedule (which contains other amendments in relation to multinational top-up tax and amendments in relation to domestic top-up tax).

PART 2

UNDERTAXED PROFITS RULE

Multinational top-up tax to include undertaxed profits rule

2 (1) Section 121 (introduction to multinational top-up tax) is amended as follows.

(2) In subsection (1), after "IIR" insert "and UTPR".

(3) In subsection (5), omit paragraph (e).

Expansion of chargeable persons

3 (1) Section 122 (chargeable persons) is amended as follows.

(2) In subsection (1), omit "responsible" in both places.

(3) In subsection (2), omit "responsible" in each place.

(4) In subsection (3)(a), omit "responsible".

(5) In subsection (7), omit "responsible".

Charge to multinational top-up tax to include UTPR

4 (1) For section 123 substitute—

"123 Charge to multinational top-up tax

(1) A person chargeable to tax as, or in respect of, a member of a multinational group ("the relevant member") is charged multinational top-up tax for an accounting period if one or more members of the group have top-up amounts or additional top-up amounts for that period and—

(a) the relevant member is a responsible member for one or more of those members (see section 128), or

(b) one or more of those members have untaxed amounts that are allocated to the relevant member (see Chapter 9A).

(2) The amount charged is the sum of the following—

(a) where subsection (1)(a) applies—

(i) top-up amounts attributed to the relevant member in accordance with Chapter 7, and

(ii) additional top-up amounts attributed to the relevant member in accordance with that Chapter, and

(b) where subsection (1)(b) applies, the untaxed amounts allocated to the relevant member in accordance with Chapter 9A.

(3) The amount charged (which in accordance with section 254 will be expressed in the CFS currency) is to be converted to sterling using the average exchange rate for the accounting period (if the CFS currency is not sterling)."

(2) In section 124 (how to calculate top-up amounts etc)—

(a) in the heading, for "and attribute them" substitute "etc", and

(b) after subsection (8) insert—

"(8A) Chapter 9A makes provision for—

(a) determining whether members of the group have untaxed amounts, and

(b) allocating those untaxed amounts to members of the group located in the United Kingdom, other than members that are investment entities."

New chapter to deal with UTPR

5 After Chapter 9 insert—

"CHAPTER 9A

UNTAXED AMOUNTS

Introduction

229A Meaning of potentially undertaxed

(1) The top-up amount and additional top-up amounts of a member of a multinational group for an accounting period are potentially undertaxed if—

(a) the member is the ultimate parent or is located in the same territory as the ultimate parent, or

(b) the taxed condition is not met.

(2) The taxed condition is met if the ultimate parent is a responsible member.

(3) If the ultimate parent is not a responsible member, the taxed condition is met if—

(a) none of the ownership interests of the ultimate parent in the member are direct ownership interests, and

(b) every indirect ownership interest the ultimate parent has in the member is derived from an ownership interest the ultimate parent has in a responsible member.

(4) This section and section 229B do not apply to members of a joint venture group (but see section 229I for alternative provision).

229B Untaxed amounts

(1) A member of a multinational group has an untaxed amount if conditions A and B are met.

(2) Condition A is that the top-up amount and additional top-up amounts of the member are potentially undertaxed.

(3) Condition B is that the sum of amounts attributed under Chapter 7 to responsible members in respect of the member's top-up amount and additional top-up amounts is less than the sum of the member's top-up amount and additional top-up amounts.

(4) The untaxed amount is the amount given by subtracting—

(a) the sum of amounts attributed under Chapter 7 to responsible members in respect of the member's top-up amount and additional top-up amounts, from

(b) the sum of the member's top-up amount and additional top-up amounts.

Allocation of untaxed amounts

229C Allocation of untaxed amount to members

(1) An untaxed amount of a member of a multinational group is to be allocated to qualifying members of the group located in the United Kingdom by—

(a) first, determining the amount ("the UK proportion") of the untaxed amount to be allocated to the group in the United Kingdom in accordance with section 229D, and

(b) then, allocating an amount of the UK proportion to each qualifying member located in the United Kingdom in accordance with section 229E.

(2) For the purposes of this Chapter, a member of a multinational group is qualifying if it is not an investment entity.

229D Amount allocated to the United Kingdom

(1) Take the following steps to determine the UK proportion of an untaxed amount of a member of a multinational group –

Step 1

Determine the number of employees of qualifying members of the group located in the United Kingdom for the accounting period to which the untaxed amount relates ("the relevant period").

Step 2

Determine the total number of employees in the relevant period of qualifying members of the group located in territories (including the United Kingdom) in which a qualifying undertaxed profits tax applies to the untaxed amount.

Step 3

Divide the result of Step 1 by the result of Step 2.

Step 4

Determine the value of tangible fixed assets of the qualifying members of the group located in the United Kingdom for the relevant period.

Step 5

Determine the value of tangible fixed assets of the qualifying members of the group located in territories (including the United Kingdom) in which a qualifying undertaxed profits tax applies to the untaxed amount.

Step 6

Divide the result of Step 4 by the result of Step 5.

Step 7

Add together the results of Step 3 and Step 6 and divide that sum by 2.

Step 8

The UK proportion of the untaxed amount is the untaxed amount multiplied by the result of Step 7.

(2) A qualifying undertaxed profits tax applies in a territory in relation to an untaxed amount if –

(a) a qualifying undertaxed profits tax is in force in that territory for the relevant period, and

(b) the provisions of that tax result in a proportion of the untaxed amount (however described for the purposes of that tax) that is greater than nil being allocated to the territory.

(3) See sections 229G and 229H for how to determine the number of employees and the value of tangible fixed assets of a qualifying member of a multinational group.

229E Allocation to qualifying members

(1) Take the following steps to determine how much of an untaxed amount is to be allocated to each qualifying member located in the United Kingdom –

Step 1
Determine the number of employees of the member in the accounting period ("the relevant period") to which the untaxed amount relates.

Step 2
Determine the total number of employees for the relevant period of qualifying members of the group located in the United Kingdom.

Step 3
Divide the result of Step 1 by the result of Step 2.

Step 4
Determine the value of tangible fixed assets of the member for the relevant period.

Step 5
Determine the value of tangible fixed assets for the relevant period of the qualifying members of the group located in the United Kingdom.

Step 6
Divide the result of Step 4 by the result of Step 5.

Step 7
Add together the results of Step 3 and Step 6 and divide that sum by 2.

Step 8
The untaxed amount to be allocated to the member is the UK proportion multiplied by the result of Step 7.

(2) This section is subject to section 229F.

229F Election to make one member of a group liable for untaxed amounts

(1) The filing member of the group may elect for an accounting period that—

(a) section 229E does not apply, and

(b) instead, a member of the group specified in the election is to be allocated the whole of the UK proportion of each untaxed amount that would be otherwise be allocated between the qualifying members of the group located in the United Kingdom.

(2) A member of the group may only be specified in the election if—

(a) the member is located in the United Kingdom, and

(b) the member has consented to the election.

(3) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section, and has effect for that purpose as if references to an information return or overseas return notification were to a self-assessment return or below-threshold notification.

How to determine number of employees and tangible fixed assets values

229G Number of employees

(1) For the purposes of this Chapter, the number of employees of a qualifying member of a multinational group in an accounting period is the full-time equivalent employee number for that member for that period.

(2) To determine the full-time equivalent employee number for a member of a multinational group for an accounting period take the following steps—

Step 1

Determine the number of full-time employees of that member that were full-time employees for the whole of that period.

Step 2

Determine, for each employee of that member for that period who is not a full-time employee for the whole of that period (whether they were part-time employees or were not employed for the whole of the period), such fraction as is just and reasonable.

Step 3

Add together the number determined under Step 1 and the fractions determined under step 3.

If the member was a member of the group throughout the whole of the period, the result of this Step is the full-time equivalent employee number.

Step 4

Where the member was not a member of the group for the whole period, make such adjustments to the result of Step 3 as is just and reasonable to arrive at a full-time equivalent employee number that reflects the number of employees of the member in the period for which it was a member of the group.

For the purpose of this Step, ignore section 208(2) (members joining or leaving group in an accounting period treated as members for the whole of the period).

(3) For the purposes of this section "employee", in relation to a member of a multinational group, means a person whose employment costs are met by that member (whether or not the person's activities are carried on in the territory of the member) as recorded in the financial statements of the member and who—

(a) is regarded as an employee under the law of the territory in which the member is located, or

(b) acts exclusively under the direction or control of the member or another member of the group (including on a part-time basis).

(4) Where a member of a multinational group is a flow-through entity, employees of the entity—

(a) are to be treated as employees of members of the group that are not flow-through entities that are located in the territory in which the flow-through entity was created, or

(b) where there are no such members in that territory, are ignored for the purposes of this Chapter.

(5) Subsection (4) does not apply to employees of a flow-through entity that are regarded for the purposes of this section as employees of a permanent establishment of the entity.

(6) Where a permanent establishment does not prepare separate financial accounts, the reference in subsection (3) to employment costs recorded in financial statements is to the employment costs that would have been so recorded had such statements been prepared (and those costs are to be excluded from the financial statements of the main entity for the purposes of applying this section).

229H Value of tangible fixed assets

(1) To determine the value of tangible fixed assets of a qualifying member of a multinational group for an accounting period—

(a) add together—

(i) the sum of the values of each tangible fixed asset held by the member at the start of the period, as those values are recorded in the member's financial statements, and

(ii) the sum of the values of each tangible fixed asset held by the member at the end of the period, as those values are recorded in the member's financial statements, and

(b) divide the result of paragraph (a) by 2.

(2) In each case the value of a tangible fixed asset is to include accumulated depreciation, depletion or impairment.

(3) If the member is not a member of the group at the start of the period, or at the end of the period, the sum of the values of its tangible fixed assets at that time is to be treated as nil.

(4) For the purpose of subsection (3), ignore section 208(2) (members joining or leaving group in an accounting period treated as members for the whole of the period).

(5) Where a permanent establishment does not prepare separate financial accounts, the values to be used are those that would have been recorded in those accounts had they been prepared (and those values are to be excluded from the financial statements of the main entity for the purposes of applying this section).

(6) Tangible fixed assets held by a member of the group that is a flow-through entity—

(a) are to be treated as held by members of the group that are not flow-through entities that are located in the territory in which the flow-through entity was created, or

(b) where there are no such members in that territory, are to be ignored for the purposes of this Chapter.

(7) Subsection (6) does not apply to assets of a flow-through entity that are held by a permanent establishment of the entity.

(8) For the purposes of this Chapter "tangible fixed assets" means all tangible assets wherever located, other than cash or cash equivalents or financial assets.

Joint ventures

229I Joint ventures

(1) This section applies where—

(a) the ultimate parent of a multinational group is not subject to Pillar Two IIR tax for an accounting period,

(b) the group includes a joint venture group, and

(c) the members of the joint venture group are undertaxed in relation to the multinational group for that period.

(2) The members of a joint venture group are undertaxed in relation to a multinational group if—

(a) the sum of amounts attributed to responsible members of the multinational group under Chapter 7 in respect of members of the joint venture group's top-up amount and additional top-up amounts, is less than

(b) the sum of such amounts in respect of the joint venture group that would be attributed under that Chapter to the ultimate parent of the multinational group if it were subject to Pillar Two IIR tax.

(3) The amount given by subtracting the amounts mentioned in paragraph (a) of subsection (2) from the amounts mentioned in paragraph (b) of that subsection is an untaxed amount of the joint venture group in relation to the multinational group.

(4) Sections 229C to 229F (allocation of untaxed amounts) apply for the purposes of allocating an untaxed amount of a joint venture group in relation to a multinational group to qualifying members of that multinational group as they apply to the allocation of an untaxed amount of a member of the multinational group to those members."

Transition into regime

6 (1) Schedule 16 (transitional provision) is amended as follows.

(2) In Chapter 1 of Part 2, in the Chapter heading, for "Transitional" substitute "General transitional".

(3) In Chapter 2 of Part 2, in the Chapter heading, after "Application" insert "of Chapter 1".

(4) After paragraph 12 insert—

"CHAPTER 3

UTPR TRANSITIONAL SAFE HARBOUR ELECTION

Election

13 (1) The filing member of a multinational group may elect for an accounting period that in the territory of the ultimate parent—

(a) no member of the group located in the territory has an untaxed amount relating to that period, and

(b) no joint venture group whose joint venture parent is located in the territory has an untaxed amount in relation to the multinational group relating to that period.

(2) An election may only be made for an accounting period if—

(a) the minimum corporate tax rate for the territory of the ultimate parent is equal to, or in excess of, 20%, and

(b) the accounting period—

(i) commenced on or before 31 December 2025 and ends before 31 December 2026, and

(ii) is not longer than 12 months.

(3) The "minimum corporate tax rate" for a territory means—

(a) in the case of a territory in which corporate income tax may be imposed by subdivisions of that territory as well as by a national authority, the sum of—

(i) the nominal national rate that generally applies, and

(ii) the lowest nominal rate that generally applies that is imposed by a subdivision of that territory (and where one or more subdivisions do not impose corporate income tax, that rate will be zero), or

(b) otherwise, the nominal rate that generally applies."

(5) In Schedule 16A (as inserted by paragraph 49(1) of this Schedule) at the end insert—

"PART 2

UNTAXED AMOUNTS: INTERNATIONAL EXPANSION OF GROUPS

No untaxed amounts for groups in initial phase of international expansion

7 (1) This paragraph applies to a multinational group for an accounting period if—

(a) it meets the international expansion condition for that period, and

(b) the accounting period is the first accounting period in which the group came within the scope of Chapter 9A, or any of the following 4 accounting periods.

(2) If this paragraph applies to a multinational group for an accounting period—

(a) no member of the group has an untaxed amount relating to that period, and

(b) no joint venture group has an untaxed amount in relation to the multinational group relating to that period.

(3) A multinational group meets the international expansion condition for an accounting period if—

(a) the group does not have members located in more than 6 territories, and

(b) the sum of the values of tangible fixed assets of qualifying members of the group, other than members located in the reference territory, for that period does not exceed 50 million euros.

(4) For the purposes of this paragraph—

(a) the value of tangible fixed assets of a qualifying member of a multinational group is to be determined in accordance with section section 229H, and

(b) the "reference territory" is the territory for which the sum of the values of tangible fixed assets of qualifying members of the group located in that territory is greatest.

(5) The first accounting period in which a multinational group comes within the scope of Chapter 9A is the later of—

(a) the first accounting period for which it meets Condition A in section 129(2) (annual revenue exceeds 750 million euros), and

(b) the first accounting period beginning on or after the day on which section 229C (allocation of untaxed amount to members) comes into force for any purpose."

Consequential amendments: IIR and qualifying undertaxed profits tax

7 (1) In section 128 (responsible members)—

(a) in subsection (7)(b)(i), after "equivalent to" insert "the IIR provisions of", and

(b) after subsection (7) insert—

"(8) In this section the "IIR provisions of multinational top-up tax" means the provisions of this Part relating to the charging of top-up amounts and additional top-up amounts (but not untaxed amounts)."

(2) In section 257 (meaning of qualifying undertaxed profits tax), in subsection (1), after "it is" insert "—

(a) multinational top-up tax (see, in particular, Chapter 9A), or

(b)".

Other consequential amendments

8 (1) In Schedule 17 (index of defined expressions), in the table, at the appropriate places insert—

"qualifying member (in Chapter 9A of Part section 229C(2)";".

3)

(2) In Schedule 15 (elections), in paragraph 2(1), after paragraph (h) insert—

"(ha) section 229F;".

(3) In section 272 (domestic top-up tax for members of groups), in subsection (4), after paragraph (b) insert—

"(c) Chapter 9A (qualifying undertaxed profits tax)."

(4) In section 273 (domestic top-up tax for single entities), in subsection (4), after paragraph (z) insert—

"(z1) Chapter 9A (qualifying undertaxed profits tax)."

Commencement

9 (1) The amendments made by this Part of this Schedule have effect for accounting periods commencing on or after such day as the Treasury may specify in regulations made by statutory instrument (and different days may be specified for different purposes).

(2) The Treasury may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of the amendments made by this Part of this Schedule, including provision making different provision in relation to different cases.

PART 3

OTHER AMENDMENTS

Partnerships

10 (1) In section 122 (chargeable persons)—

(a) in subsection (1)(a)(ii), omit "that is not a body corporate",

(b) in subsection (2)(c)(ii), omit "that is not a body corporate", and

(c) omit subsections (4) to (6).

(2) After section 232, insert—

"232A Partnerships

(1) A partnership is to be regarded for the purposes of this Part as continuing to be the same partnership regardless of a change in membership, provided that a person who was a member before the change remains a member after the change.

(2) Where—

(a) ownership interests in a partnership are transferred to more than one individual or entity, and

(b) the result is a partnership of which none of the original partners are members,

that new partnership is to be treated as if it were the same partnership as the old partnership.

(3) Where a partnership is otherwise dissolved in an accounting period—

(a) the partnership is to be treated as a continuing entity for the purpose of dealing with its rights and obligations under this Part in respect of that accounting period and previous accounting periods, and

(b) for the purposes of Schedule 14 (administration) each person who was a partner in that accounting period (before the partnership's dissolution) is to be treated as a partner of the continuing entity.

(4) The reference in subsection (2) to a transfer of ownership interests includes any series of transactions having the effect of a transfer (including by way of the cancellation of interests and the issue of corresponding interests)."

(3) In section 259 (other definitions), in subsection (1) at the appropriate place insert—

""partnership" does not include anything that is a body corporate;"

(4) After section 268 insert—

"268A Partnerships

Section 232A (partnerships) applies for the purposes of this Part as it applies for the purposes of Part 3."

(5) In section 269 (chargeable persons for domestic top-up tax)—

(a) in subsection (1)—

(i) in paragraph (a), omit "that is not a body corporate", and

(ii) in paragraph (b), omit "that is not a body corporate" in the second place it occurs, and

(b) omit subsections (4) to (6).

(6) In Schedule 14 (administration of multinational top-up tax)—

(a) in paragraph 3—

(i) in paragraph (a) of sub-paragraph (2), omit "or a limited liability partnership",

(ii) in that sub-paragraph, omit paragraph (c), and

(iii) for sub-paragraph (3) substitute—

"(3) In this Schedule—

(a) "limited partnership" includes an entity established under the law of a territory outside the United Kingdom that is equivalent to a limited partnership, and

(b) "general partner" includes a partner of such an entity that corresponds to a general partner.

(4) See also section 232A, which contains provision about the continuity of partnerships which is relevant to this paragraph.

(5) Where an obligation of a partnership may be met by one of its partners and the partnership does not comply with that obligation—

(a) an officer of Revenue and Customs may by notice require any such partner to meet the obligation, and

(b) that partner is to be treated for that purpose as the filing member (and accordingly may be subject to any penalty for a failure to comply).",

(b) after paragraph 37 insert—

"Partnership payment notices

37A(1) An officer of Revenue and Customs may issue a partnership payment notice if an amount of multinational top-up tax payable by a member of a multinational group that is a partnership (including any interest on that amount) is not paid by the end of the period of three months beginning with the relevant date.

(2) A partnership payment notice may be issued to any person who—

(a) is a partner, or

(b) was a partner at any time in the accounting period to which the amount payable relates (wherever in the world they are located).

(3) A partnership payment notice is a notice requiring the recipient to pay an outstanding amount of multinational top-up tax payable by a member of the group that is a partnership by a date specified in the notice.

(4) Sub-paragraphs (4) to (9) of paragraph 34 and paragraph 36 apply to a partnership payment notice as they apply to a group payment notice.

(5) In this paragraph and in paragraph 37B, reference to a partner, in the case of a limited partnership, is to a general partner.

Recovery of partnership payment and effect for tax purposes etc

37B (1) This paragraph applies where a partner of a member of a multinational group that is a partnership (the "payer") makes a payment in respect of the liability to pay multinational top-up tax of the partnership (whether or not in consequence of a partnership payment notice).

(2) The payer may recover the amount from the other partners.

(3) In calculating the payer's income, profits or losses for tax purposes—

(a) the payment is not allowed as a deduction, and

(b) the reimbursement of any such payment is not to be regarded as a receipt.

(4) The payment—

(a) is not (otherwise) to be taken into account in calculating the profits or losses of for corporation tax or income tax purposes of either the payer or the other partners, and

(b) is not to be regarded as a distribution for income tax or corporation tax purposes.

(5) The amount paid by the payer is to be taken into account in calculating—

(a) the amount of multinational top-up tax unpaid by the partnership, and

(b) the amount due by virtue of a partnership payment notice relating to the amount unpaid.

(6) Similarly, any payment by the partnership or by any of the other partners of any of the amount unpaid is to be taken into account in calculating the amount due by virtue of a partnership payment notice (or by virtue of any other partnership payment notice relating to the amount unpaid).

(7) In this paragraph, "for tax purposes" means for the purposes of income tax, corporation tax, multinational top-up tax or domestic top-up tax.", and

(c) in paragraph 39—

(i) omit the "or" after paragraph (a) in sub-paragraph (1),

(ii) after that paragraph insert—

"(aa) a partner of a partnership makes a payment on behalf of the partnership or another partner, or", and

(iii) in sub-paragraph (2), after paragraph (a) insert—

"(aa) deeming a payment made by a partner of a partnership to have been made by the partnership or another partner;".

(7) In Schedule 17 (index of defined expressions), in the table, at the appropriate places insert—

"paragraph 3(3) of Schedule 14";	
"limited partnership (in Schedule 14)	paragraph 3(3) of Schedule 14";
"partnership	section 259(1);".

Qualifying non-profit subsidiaries

11 In section 127 (excluded entities), in subsection (5)—

(a) for paragraph (b) substitute—

"(b) the revenue (see section 129(5)) of the multinational group of which the entity is a member, excluding the revenues of each member that is a non-profit organisation, a qualifying service entity or a qualifying exempt income entity—

(i) would not exceed the threshold set out in section 129(4), and

(ii) is less than 25% of the total revenue of the group, and", and

(b) omit paragraph (c).

Charging permanent establishments of intermediate/partially-owned parent members

12 (1) Section 128 (responsible members) is amended as follows.

(2) In subsection (3), for paragraph (c) substitute—

"(c) at least one member of the group in which it has an ownership interest, or a permanent establishment for which it is the main entity, has a top-up amount or an additional top-up amount."

(3) In subsection (4), after "for" insert "—

"(a) every permanent establishment for which it is the main entity, and

(b)".

(4) In subsection (5), for paragraph (b) substitute—

"(b) at least one member of the group in which it has an ownership interest, or a permanent establishment for which

it is the main entity, has a top-up amount or an additional top-up amount."

(5) In subsection (6), after "for" insert "—

"(a) every permanent establishment for which it is the main entity, and

(b)".

(6) In section 232, after subsection (3) insert—

"(3A) But an entity with a permanent establishment is not to be taken as having ownership interests in that permanent establishment."

Meaning of "revenue"

13 In section 129, after subsection (5) insert—

"(6) For the purposes of this Part "revenue" includes all income, gains and other amounts received or accrued that are relevant to profit and loss as reported in consolidated financial statements."

Pension expense

14 For section 147 (accrued pension expense) substitute—

"147 Accrued pension expense

(1) This section applies where a member of a multinational group has made contributions to a pension fund, or has received amounts from a pension fund, in an accounting period.

(2) Take the amount of income or expense (expressed as a negative number where expense) that has arisen directly in respect of the fund as reflected in the member's underlying profits and—

(a) add the sum of contributions made to the fund by the member in the period, and

(b) subtract any amount received by the member from the fund in the period.

(3) If the result of subsection (2)—

(a) is more than nil, reduce the underlying profits by that result, or

(b) is less than nil, increase the underlying profits by that result (as expressed a positive number)."

Tax credits

15 (1) After section 147 insert—

"147A Treatment of tax credits

(1) The underlying profits of a member of a multinational group, and the covered tax balance of that member (see Chapter 5), are to be adjusted (if necessary) to secure that—

(a) qualifying refundable tax credits are accounted for as income rather than as tax expense,

(b) tax credits that are marketable transferable tax credits in relation to the member are accounted for as income rather than as tax expense, and

(c) other tax credits are accounted for as tax expense rather than as income.

(2) Section 148 sets out when tax credits are qualifying refundable tax credits.

(3) Section 148A sets out the meaning of "transferable tax credit" and "marketable transferable tax credit".

(4) Sections 148B and 148B set out rules about the value of marketable transferable tax credits.

(5) Sections section 176A and 176B (in Chapter 5) set out rules about the value of transferable tax credits that are not marketable transferable tax credits (which as a result of subsection (1)(c) are generally to be accounted for as tax expense).

(6) See also sections 176C to 176E which contain special rules for tax credits received in connection with a tax equity partnership."

(2) In section 148 (treatment of qualifying refundable tax credits)—

(a) in the heading, for "Treatment" substitute "Meaning", and

(b) omit subsection (1).

(3) After that section insert—

"148A Transferable tax credits

(1) A tax credit is a transferable tax credit in relation to a member of a multinational group if—

(a) the member is—

(i) the person to whom the credit was originally granted (the "originator"), or

(ii) a person ("a purchaser") who has acquired the credit (whether from the originator or anyone else), and

(b) the transferability condition is met in relation to the member.

(2) A transferable tax credit is a marketable transferable tax credit in relation to a member of a multinational group if—

(a) it is a transferable tax credit, and

(b) the marketable condition is met in relation to the member.

(3) Those conditions are met differently depending on whether the member is the originator or a purchaser.

(4) The transferability condition is met—

(a) in relation to the originator if, under the law of the territory in which the credit was granted, credits of that type may be transferred to a person or entity that is not connected with originator before the end of 15 months after the end of the accounting period in which the credit is granted, and

(b) in relation to a purchaser if, under the law of that territory, credits of that type may be transferred to a person or entity that is not connected with the purchaser—

(i) under the same or similar conditions as would apply to the originator, and

(ii) before the end of the accounting period in which it was transferred to the purchaser.

(5) The marketable condition is met—

(a) in relation to the originator if—

(i) the credit is transferred to a person or entity that is not connected with the originator before the end of 15 months of the accounting period in which the credit was granted, or

(ii) similar credits are traded between persons or entities that are not connected to each other before the end of 15 months of the accounting period in which they are granted, and are typically traded at a price equal to or in excess of 80% of their net present value, and

(b) in relation to a purchaser if the purchaser acquired the credit—

(i) from a person or entity that is not connected to the transferor, and

(ii) at a price that is equal to or in excess of 80% of its net present value.

(6) In determining the net present value of a tax credit—

(a) assume that the entity that holds it will be able to use it in the accounting periods in which it may be used, and

(b) the discount rate is to be determined by reference to the return on debt instruments issued by the government of the territory in which the credit was granted that have the same,

or a similar, maturity to the period over which the credit is to be used and that are issued—

(i) in relation to a credit that has been transferred, in the accounting period in which the credit was transferred, or

(ii) in relation to a credit held that has not been transferred, in the accounting period in which it was granted.

(7) References in subsection (6) to an accounting period are—

(a) in relation to determining net present value in connection with determining whether the marketable condition is met by the originator, an accounting period of the originator, and

(b) in relation to determining net present value in connection with determining whether the marketable condition is met by a purchaser, an accounting period of the purchaser.

(8) Where a transferable tax credit is also a qualifying refundable tax credit, it is to be treated as not being a transferable tax credit for the purposes of this Part.

148B Value of marketable transferable tax credits: originator

(1) The underlying profits of a member of a multinational group that is the originator in relation to a marketable transferable tax credit are to be adjusted to secure that the value of marketable transferable tax credits it holds, and has held, as originator are reflected as follows.

(2) Where the credit is not transferred before the end of 15 months after the end of the accounting period in which it was granted, the full value of the credit is to be recognised as income.

(3) Where the credit is subsequently transferred for consideration which is less than the value of the credit, the difference between the value of the credit and the consideration received for its transfer is to be recognised as a loss in the accounting period in which it is transferred.

(4) Where the credit is transferred before the end of 15 months after the end of the accounting period in which the credit is granted, the consideration for the transfer (rather than the value of the credit) is to be recognised as income.

148C Value of marketable transferable tax credits: purchaser

(1) The underlying profits of a member of a multinational group that is the purchaser in relation to a marketable transferable tax credit

are to be adjusted to secure that the value of marketable transferable tax credits it holds, and has held, as purchaser are reflected as follows.

(2) On using an amount of the credit in an accounting period, the amount given by subsection (3) is to be recognised as income.

(3) That amount is the amount given by multiplying—

(a) the amount used divided by the full value of the credit, by

(b) the amount given by subtracting the purchase price of the credit from the full value of the credit.

(4) On transferring the credit, the amount in subsection (5) is to be reflected in the underlying profits for the accounting period in which the transfer occurred—

(a) if positive, as a gain, or

(b) if negative, as a loss.

(5) That amount is the amount given by subtracting—

(a) the sum of—

(i) the purchase price of the credit, and

(ii) any amounts recognised as income in accordance with subsection (2) (whether in that accounting period or a previous accounting period), from

(b) the sum of—

(i) the amount of the credit that has been used, and

(ii) the consideration for the transfer.

(6) Where the credit has not been transferred, and was not fully used, before its expiry, the amount in subsection (7) is to be reflected as a loss in the accounting period in which the credit expired.

(7) That amount is the amount given by subtracting—

(a) the amount of the credit that was used, from

(b) the sum of the purchase price of the credit and any amounts recognised in accordance with subsection (2)."

(4) In section 175 (amounts excluded from covered tax balance), in subsection (2), in paragraph (c), after "credit", in the second place it occurs, insert ", or in respect of a marketable transferable tax credit,".

(5) In section 176 (amounts to be reflected in covered tax balance), in subsection (2)—

(a) in paragraph (d), in sub-paragraph (i), after "credit" insert "or a marketable transferable tax credit", and

(b) in paragraph (e), after "credit" insert "or a marketable transferable tax credit".

(6) After section 176 insert—

"Transferable tax credits

176A Value of non-marketable transferable tax credits: originator

(1) The covered tax balance of a member of a multinational group that holds a non-marketable transferable tax credit as originator is to be adjusted to secure that the value of the credit is reflected as follows.

(2) The value of the tax credit is to be reflected as it is used.

(3) If the credit is transferred (after the end of the period of 15 months after the accounting period in which the credit is granted), the consideration for the transfer is to be reflected as a credit in the accounting period in which the transfer occurred.

(4) In this section, and in section 176B, "non-marketable transferable tax credit" means a transferable tax credit that is not a marketable transferable tax credit (see section 147A).

176B Value of non-marketable transferable tax credits: purchaser

(1) The covered tax balance of a member of a multinational group that holds, or has held, a non-marketable transferable tax credit as purchaser is to be adjusted to secure that the value the credit is reflected as follows.

(2) On using an amount of the credit, the amount given by subsection (3) is to be reflected as a credit in the covered tax balance for the accounting period in which it is used.

(3) That amount is the amount given by multiplying—
  (a) the amount used divided by the full value of the credit, by
  (b) the amount given by subtracting the purchase price of the credit from the full value of the credit.

(4) On transferring the credit, the amount in subsection (5) is—
  (a) if positive, to be reflected as a credit in the covered tax balance for the accounting period in which the transfer occurred, or
  (b) if negative, to be reflected as a loss in the underlying profits of the member for that period.

(5) That amount is the amount given by subtracting—
  (a) the sum of—
    (i) the purchase price of the credit, and
    (ii) any amounts recognised reflected in the covered tax balance in accordance with subsection (2) (whether

in that accounting period or a previous accounting period), from

(b) the sum of—

(i) the amount of the credit that has been used, and

(ii) the consideration for the transfer.

(6) Where the credit has not been transferred, and was not fully used, before its expiry, the amount in subsection (7) is to be reflected as a loss in the underlying profits of the member for the accounting period in which the credit expired.

(7) That amount is the amount given by subtracting—

(a) the amount of the credit that was used, from

(b) the sum of the purchase price of the credit and any amounts recognised in accordance with subsection (2)."

Tax equity partnerships

16 (1) After section 176B (as inserted by paragraph 14), insert—

"Tax equity partnerships

176C Tax credits etc allocated under tax equity partnerships

(1) Where—

(a) a member of a multinational group is an investor in a tax equity partnership arrangement, and

(b) an election under section 165 (excluded equity gains and losses included) applies in relation to the member for an accounting period,

qualifying flow-through tax benefits provided to the member under that arrangement in that period are to be excluded from the covered tax balance of that member for that period.

(2) "Flow-through tax benefits" means tax credits, other than qualifying refundable tax credits, and tax deductible losses allocated to an investor in a tax equity partnership arrangement under that arrangement (whether or not those credits or losses are used by the investor).

(3) Section 176D (proportional amortisation method) applies for the purposes of determining the extent to which flow-through tax benefits are "qualifying" where—

(a) in determining the underlying profits of the investor, the proportional amortisation method is used to account for the arrangement, or

(b) the filing member of the multinational group of which the investor is a member has elected that section 176D should apply for those purposes in relation to the member.

(4) Otherwise, section 176E (subtraction method) applies for those purposes.

(5) For the purposes of this Part, a member of a multinational group is an investor in a tax equity partnership arrangement if—

(a) the member has made an investment in an entity that is tax transparent in the territory in which the member is located,

(b) the investment is treated as an equity interest for tax purposes in the territory in which the member is located,

(c) the investment would, under an authorised accounting standard of the territory in which the entity operates, be treated as an equity interest,

(d) the entity is not a member of the multinational group, and

(e) it is reasonable to expect, at the time of making the investment, that the return on the investment would be negative in the absence of the provision of flow-through tax benefits.

(6) But a member of a multinational group is not to be regarded as an investor in a tax equity partnership arrangement if—

(a) the investment in the entity does not represent a genuine economic interest in that entity such that the member is exposed to the possibility of a loss on the investment, or

(b) the territory in which the member is located limits the use of tax equity partnership arrangements to arrangements that involve a multinational group subject to multinational top-up tax or its equivalent under the law of a territory outside the United Kingdom.

(7) Flow-through tax benefits provided to a member of a multinational group in an accounting period that are not qualifying are to be reflected as a credit in the covered tax balance for that period.

(8) Flow-through tax benefits (whether qualifying or not) provided to a member of a multinational group are not to be reflected in the underlying profits of that member, even if that would be the effect of the election under section 165.

(9) For the purposes of subsection (3)(a), the "proportional amortisation method" means a method of accounting under which—

(a) the initial capital investment in the arrangement is amortised over the term of the investment with the amortisation expense for an accounting period based on the proportion of the flow-through tax benefits expected to be provided over the term of the arrangement that are expected to be provided in that period, and

(b) the difference between the flow-through tax benefits received in an accounting period and that amortisation expense for that period is reflected as tax expense.

(10) Paragraph 2 of Schedule 15 (annual elections) applies to an election under subsection (3)(b).

176D Flow-through tax benefits: proportional amortisation method

(1) Where this section applies, to determine the extent to which flow-through tax benefits provided to an investor in an accounting period under a tax equity partnership arrangement are qualifying, take the following steps—

Step 1

Determine the amount of capital investment provided by the investor to the arrangement at its commencement.

Step 2

Divide the flow-through through tax benefits provided under the arrangement in the accounting period by the total flow-through tax benefits expected to be provided over the whole term of the arrangement.

Step 3

Multiply the result of Step 1 by the result of Step 2.

Step 4

Add the following together—

(a) the amounts, if any, of tax credits made available to be used by the investor under the arrangement in the accounting period;

(b) the amounts, if any, of tax deductible losses made available to the investor under the arrangement in the accounting period;

(c) the amounts, if any, of distributions made to the investor in the accounting period;

(d) the amounts, if any, received by the investor for the sale of any part of its investment in the arrangement in the accounting period.

Step 5

If the result of Step 3 is equal to or greater than the result of Step 4, all of the flow-through tax benefits provided under the arrangement in the accounting period are qualifying.
Otherwise proceed to Step 6.

Step 6

Subtract the result of Step 3 from the result of Step 4.

Step 7

The amount of the flow-through benefits provided under the arrangement in the accounting period that is qualifying is the amount given by reducing the amount of those benefits (but not below nil) by the result of Step 6.

(2) Accordingly, the amount by which those benefits are reduced in accordance with Step 7 represents non-qualifying flow-through tax benefits which are to be reflected as a credit in the investor's covered tax balance.

176E Flow-through tax benefits: subtraction method

Where this section applies, to determine the extent to which flow-through tax benefits provided to an investor in an accounting period under a tax equity partnership arrangement are qualifying, take the following steps—

Step 1

Determine the amount of capital investment provided by the investor to the arrangement at its commencement.

Step 2

Subtract the following from that amount—

(a) the amounts, if any, of tax credits made available to be used by the investor under the arrangement since the commencement of the arrangement, other than tax credits that are not qualifying refundable tax credits that were made available in the accounting period;

(b) the amounts, if any, of tax deductible losses made available to the investor under the arrangement since its commencement, other than losses made available in the accounting period;

(c) the amounts, if any, of distributions made to the investor since the arrangement's commencement;

(d) the amounts, if any, received by the investor for the sale of any part of its investment in the arrangement.

Step 3

If the result of Step 2 is nil or less, no flow-through tax benefits provided under arrangement in the accounting period are qualifying. If the result of that step is more than nil, proceed to Step 4.

Step 4

Subtract the flow-through tax benefits provided to the investor in the accounting period under the arrangement from the result of Step 2.

Step 5

If the result of Step 4 is nil or greater, all of the flow-through tax benefits provided under the arrangement in the accounting period are qualifying.
Otherwise, the amount of those benefits that is qualifying is the amount of those benefits that when subtracted from the result of Step 2 would give a result of nil."

(2) In Schedule 15 (elections), in paragraph 1(1), before paragraph (a) insert—

"(za) section 176C(3)(b);".

Adjustments for companies in distress

17 In section 151 (adjustments for companies in distress), for subsection (7) substitute—

"(7) Where more than one debt is released at the same time, the debts released are to be treated as a single aggregate amount for the purpose of assessing whether conditions in this section are met (for example, whether the member's assets exceed its liabilities at any time)."

Adjustments where life assurance business carried on

18 (1) Section 152 is amended as follows.

(2) In subsection (2), for "formed part of the member's tax expense amount" substitute "been included in the member's covered tax balance".

(3) For subsection (4) substitute—

"(4) In this section "life assurance business" means—

(a) a life assurance business within the meaning of section 56 of FA 2012, or

(b) a business regulated as a life assurance business under the law of a territory outside the United Kingdom."

Exclusion of certain insurance reserve movement expense

19 In section 153 (exclusion of certain insurance reserve movement expense), in subsection (1) after "excluded dividends" insert "falling within section 141(2)(b)".

Qualifying intra-group financing arrangements

20 (1) Section 154 (qualifying intra-group financing arrangements) is amended as follows.

(2) In subsection (2)—

(a) in the definition of "low-tax member", after "ignoring" insert "potentially qualifying", and

(b) in the definition of "high-tax member", after "ignoring", insert "potentially qualifying".

(3) After that subsection insert—

"(3) For the purposes of the definition of "low-tax member" intra-group financing arrangements are "potentially qualifying" in relation to a member of a multinational group if they would be qualifying intra-group financing arrangements if the member were a low-tax member.

(4) For the purposes of the definition of "high-tax member" intra-group financing arrangements are "potentially qualifying" in relation to a member of a multinational group if they would be qualifying intra-group financing arrangements if the member were a high-tax member."

Permanent establishment income and expense attribution

21 (1) Section 159 (permanent establishment income and expense attribution) is amended as follows.

(2) In subsection (1), for the words from "only" to the end substitute "—

(a) reflect all amounts of income and expense that are attributable to it in accordance with the tax treaty under which it is treated as a permanent establishment, and

(b) do not reflect amounts attributable to its main entity in accordance with that treaty."

(3) In subsection (2), for the words from "only" to the end substitute "—

(a) reflect all amounts of income and expense that are attributable to it in accordance with the law of the territory in which the member is located, and

(b) do not reflect amounts attributable to its main entity in accordance with the law of that territory."

(4) In subsection (3), for the words from "only" to the end substitute "—

(a) reflect all amounts of income and expense that would be attributed to it in accordance with Article 7 of the OECD tax model, and

(b) do not reflect amounts that would be attributed to its main entity in accordance with the OECD tax model."

(5) After that subsection insert—

"(4) Amounts are to be reflected (or, as the case may be, not reflected) in the underlying profits of a permanent establishment in accordance with subsections (1) to (3) whether or not—

(a) in the case of an amount of income, it is subject to tax or not, or

(b) in the case of an amount of expense, it is deductible or not."

Transparent entities etc

22 (1) Section 168 (underlying profits of transparent and reverse hybrid entities) is amended in accordance with sub-paragraphs (2) to (8).

(2) In subsection (2), in paragraph (b), after territory insert "as a result of being tax resident in that territory".

(3) In subsection (3), after "entity" insert "or individual".

(4) In subsection (6), in paragraph (a), after "is" insert "an entity that is"

(5) In subsection (9), after "an" insert "individual or to an".

(6) In subsection (10), after "entity" insert "or an individual".

(7) In subsection (11), in the words before paragraph (a), for "is located" substitute "was created, R is not tax resident in any territory".

(8) After that subsection insert—

"(12) For the purposes of applying this section in relation to a multinational group whose ultimate parent is a flow-through entity, the ultimate parent is to be treated as if it were not regarded as tax transparent in the territory in which it is located."

(9) In section 170 (adjustments for ultimate parent that is a flow-through entity), after subsection (2) insert—

"(2A) Where profits are allocated to the ultimate parent as a result of section 168 (underlying profits of transparent and reverse hybrid entities), those profits are to be regarded, for the purposes of this section, as profits to which holders of ownership interests in the ultimate parent are entitled (to each in proportion to the proportion of those profits to which they would have been entitled had those profits actually accrued to the ultimate parent)."

(10) In section 238 (tax transparency of entities)—

(a) for "if" substitute "to the extent that", and

(b) for "and", in both places it occurs, substitute "or".

Covered taxes

23 In section 173 (covered taxes), in subsection (1)(c) for "of the member" substitute "in which the tax is imposed".

Reallocation of tax expense

24 (1) In section 177 (permanent establishments), in subsection (1), after "establishment", in the second place it occurs, insert "(and is to be regarded as qualifying current tax expense of the permanent establishment for the purposes of applying section 175(2)(a))".

(2) Section 178 (reallocation of tax expense) is amended as follows.

(3) In subsection (1), in the words after paragraph (b) after "qualifying" insert "current".

(4) After subsection (1) insert—

"(1A) Where—

(a) a member of a multinational group has an amount of qualifying current tax expense,

(b) that amount is in respect of profits not included in the member's underlying profits, and

(c) if those profits had been included in the member's underlying profits, they would have been allocated to another member of the group ("O") under section 167 or 168,

that qualifying current tax expense is to be allocated to O (and is to be regarded as qualifying current tax expense of O for the purposes of applying section 175(2)(a)).

(1B) Section 175(2)(a) (exclusion of amounts relating to income or gains not included in adjusted profits) applies to an amount of qualifying current tax expense allocated in accordance with subsection (1) as if—

(a) the reference to the member's adjusted profits were to the adjusted profits of the member from whom the amount of qualifying current tax expense was allocated, and

(b) profits allocated from that member to O under section 167 or 168 were not excluded from the adjusted profits of that member."

(5) In subsection (2), in the words before Step 1, after "O" insert "(under subsections (1) and (1A))".

(6) After subsection (4) insert—

"(5) Where an amount of qualifying current tax expense would have been allocated to O, but the amount allocated is limited as a result of subsection (2) the amount not allocated remains with the member from whom it otherwise would have been allocated.

(6) But if an amount would, ignoring this subsection, remain with the member from whom it would have otherwise been allocated, and that amount relates to income or gains that are not included in the adjusted profits of O, that amount is to be excluded from the covered tax balance of both the member and O."

(7) In section 179 (controlled foreign company tax regimes)—

(a) after subsection (1) insert—

"(1A) Qualifying current tax expense allocated to F is to be regarded as qualifying current tax expense of F for the purposes of applying section 175(2)(a)."

(b) after subsection (3) insert—

"(3A) Where an amount of qualifying current tax expense would have been allocated to F but the amount allocated is limited as a result of subsection (2), the amount not allocated remains with C.

(3B) But if an amount would, ignoring this subsection, remain with C and that amount relates to income or gains that are not included in the adjusted profits of F, that amount is to be excluded from the covered tax balance of both C and F."

Controlled foreign company tax regimes

25 (1) Section 179 (controlled foreign company tax regimes) is amended as follows.

(2) In subsection (1), in paragraph (b), for "controlled foreign company" substitute "CFC entity".

(3) In subsection (4), after the definition of "controlled foreign company tax regime" insert—

""CFC entity", in relation to a member of a multinational group who is subject to a controlled foreign company tax regime, means—

(a) a controlled foreign company in relation to that member,

(b) a permanent establishment of such a controlled foreign company, or

(c) an entity whose profits are treated, for the purposes of the regime, as the profits of such a controlled foreign company;".

(4) In section 180 (blended CFC regimes)—

(a) in subsection (2)(b), omit "blended",

(b) in subsection (4), omit "blended" in the third place it occurs,

(c) in subsection (5)—

(i) in the words before paragraph (a), omit "blended" in the second place it occurs, and

(ii) in paragraph (b), omit "blended",

(d) in subsection (6)(a), omit "blended",

(e) in subsection (8)—

(i) in the words before paragraph (a), omit "blended", and

(ii) in paragraph (b), in the words before sub-paragraph (i), omit "blended", and

(f) omit subsection (10).

(5) In Schedule 17 (index of defined expressions), in the table, at the appropriate place insert—

"CFC entity section 179(4)".

Blended CFC regimes

26 In section 180, in subsection (8)(b) for sub-paragraph (ii) substitute—

"(ii) the result of Step 2 in section 132(1) for those entities were the aggregate of their profits (and losses) as shown in their financial accounts,

(iia) the combined covered tax balance for those entities were the aggregate of the taxes shown in their financial accounts,".

Qualifying foreign tax credits (substitute loss carry forward assets)

27 (1) Section 183 (substitute loss carry forward assets) is amended as follows.

(2) In subsection (3), in paragraph (b), for "in respect of which the foreign tax was calculated" substitute "in the territory in which the member is located".

(3) In subsection (4), after "qualifying" insert "foreign".

(4) In subsection (5), after "section" insert "and in section 183A"

(5) After section 183 insert—

"183A Alternative to section 183 where carry forward of credits not permitted

(1) A special foreign tax asset of a member of a multinational group is to be used to increase its covered tax balance in accordance with this section.

(2) Subsection (3) applies where—

(a) the territory in which a member of a multinational group is located requires that domestic losses are offset against relevant foreign income before foreign tax credits can be applied against tax on foreign income,

(b) the territory limits the extent to which foreign tax credits can be applied against tax in a taxable period,

(c) the territory allows foreign tax credits to be used to a greater extent where a domestic loss has been used to offset (in whole or in part) relevant foreign income in a prior period, and

(d) the member has used a domestic loss to offset (in whole or in part) relevant foreign income.

(3) Where this subsection applies, the member has a special foreign tax asset arising in the accounting period in which the loss was used.

(4) The amount of that special foreign tax asset is the amount of the domestic loss used to offset relevant foreign income multiplied by the lesser of—

(a) the nominal rate of tax in the member's territory for the taxable period in which it was used, and

(b) 15%.

(5) Where a member of a multinational group has a special foreign tax asset that arose in any previous accounting period, the member is to use that amount to increase its covered tax balance.

(6) The amount of the special foreign tax asset that is to be used in an accounting period is the lesser of—

(a) the amount of the asset, and

(b) so much of the amount of foreign tax credits credited against tax in the taxable period corresponding to that accounting period as is capable of being credited only as a result of the prior use of the domestic loss.

Any remainder continues to be a special foreign tax asset (and is available for use in subsequent account periods where subsection (5) applies)."

Substance based income exclusion: inter-jurisdictional employees and assets

28 (1) In section 196 (eligible payroll costs)—

(a) in subsection (1), in paragraph (c) for "those activities are substantially performed" substitute "at least some of the work is carried out", and

(b) after that subsection insert—

"(1A) But where—

(a) the employee carries out the work in the period both in the territory in which the member is located and outside that territory,

(b) the proportion of the time spent carrying out the work in that territory in the period is 50% or less,

only that proportion of costs in respect of the employee are eligible payroll costs."

(2) In section 197 (eligible tangible asset amounts) after subsection (6) insert—

"(6A) Where an asset falling within paragraph (a), (c) or (d) of subsection (6) is only located in the same territory as the member for part of the period—

(a) it is to be regarded for the purposes of this section as located in that territory for the whole period, but

(b) where the proportion of the period in which the asset (or in the case of a right, the asset to which the right relates) is located in the territory is 50% or less, the carrying values for the purposes of subsection (1)(a) and (b) are to be multiplied by that proportion."

Substance based income exclusion: inclusion of payroll costs and assets voluntary

29 (1) In section 196, in subsection (1) –

(a) omit the "and" after paragraph (c), and

(b) at the end of paragraph (d) insert "and,

(e) the filing member chooses to include those costs in calculating the substance based income exclusion for the period."

(2) In section 197, in subsection (5) –

(a) in the words before paragraph (a), omit "it is",

(b) in paragraph (a), at the beginning insert "it is",

(c) omit the "and" after that paragraph,

(d) in paragraph (b), at the beginning insert "it is", and

(e) at the end of that paragraph insert "and,

(c) the filing member chooses to include the asset in calculating the substance based income exclusion for the period."

Substance based income exclusion: impairment losses

30 In section 197(4) –

(a) omit the "and" after paragraph (b), and

(b) after paragraph (c) insert –

"(d) an impairment loss, and

(e) so much of the reversal of a previous impairment loss as does not cause the carrying value to exceed the value it would have been had the impairment loss not been recognised,".

Substance based income exclusion: dual use assets

31 In section 197, after subsection (7) insert –

"(7A) Where part of an asset comprising property is held by a member of a multinational group for lease, but another part of that property is retained for use by the member –

(a) the parts are to be treated as separate assets for the purposes of this section [and section 197A], and

(b) the carrying value of the asset is to be allocated between the separate parts on a just and reasonable basis."

Substance based income exclusion: leases

32 (1) In section 195 (calculation of substance based income exclusion), after subsection (7) insert—

"(7A) Section 197A allows the value of certain operating leases to be added to the tangible asset amount."

(2) After section 197 insert—

"197A Operating leases PLACEHOLDER

(1) [Placeholder for treatment of operating leases]"

Substance based income exclusion: power to make further provision

33 After section 198 insert—

"198A Power to make provision about treatment of payroll costs and assets

(1) The Treasury may by regulations make provision about the treatment of payroll costs and tangible assets in specified circumstances.

(2) Regulations may, in particular, provide that in determining the substance based income exclusion for a territory—

(a) specified eligible tangible assets or eligible payroll costs are to be treated as having a different value;

(b) specified eligible tangible assets or eligible payroll costs are to be attributed to a different member of a multinational group or to a different territory;

(c) specified eligible tangible assets or eligible payroll costs are to be excluded from that determination;

(d) specified assets that are not eligible tangible assets are to be treated as eligible tangible assets;

(e) specified costs that are not eligible payroll costs are to be treated as eligible payroll costs.

(3) In this section "specified" means specified or described in regulations."

Transfer of assets or liabilities to a member of a multinational group

34 In section 211 (transfer of assets or liabilities to a member of a multinational group), in subsection (1)—

(a) omit the "or" after paragraph (a), and

(b) after that paragraph insert—

"(aa) the value of the assets or liabilities is also, for that purpose, the carrying value of the assets or liabilities in the hands of the transferor immediately before the transfer if—

(i) the transferor is a member of the group and is located in the same territory as the transferee,

(ii) the transferee and transferor are included in the same tax consolidation group in that territory (within the meaning of section 164(5)), and

(iii) an election under section 164 (election to exclude intra-group transactions) has effect in relation to those members at the time of the transfer, or".

Investment entity tax transparency election

35 In section 213 (investment entity tax transparency election), after subsection (6) insert—

"(6A) Where, ignoring the election, profits and amounts of qualifying tax expense would be allocated to M in accordance with sections 168 and 178 to 181, those profits and amounts are to be allocated—

(a) first to M, and then

(b) to O in proportion to the direct ownership interests O is treated as having in M."

Simplified calculations for non-material members

36 (1) After section 219 insert—

"219A Simplified calculations for non-material members

(1) The filing member of multinational group may elect that in calculating the effective tax rate of the standard members of the group in a territory for an accounting period—

(a) the adjusted profits of a non-material member of a group located in that territory and to which the election applies were, instead of being calculated in accordance with Chapter 4, equal to the revenue of that member, and

(b) the covered tax balance of that member were, instead of being calculated in accordance with Chapter 5, equal to the income tax accrued by that member.

(2) An election under this section applies to a non-material member of a group if the member is specified in the election.

(3) A member of a multinational group is a non-material member of that group if—

(a) the member's assets, liabilities, income, expenses and cash flows are not included in the consolidated financial statements of the ultimate parent because of an exclusion on size or materiality grounds, or

(b) the member is a permanent establishment of a member falling within paragraph (a).

(4) For the purposes of subsection (1) the basis for the determination of a member's revenue and income tax accrued is to be information derived from qualified financial statements.

(5) For the purposes of this section, financial statements are qualified if—

(a) either—

(i) where legislation implementing the OECD's guidance on country-by-country reporting applies in the relevant territory, the statements meet the requirements for using them as a basis for a country-by-country report under that legislation, or

(ii) otherwise, they are consistent with being used as a basis for a country-by-country report in accordance with that guidance,

(b) the financial statements have been used by an external auditor of the consolidated financial statements of the ultimate parent to determine that the non-material member's assets, liabilities, income, expenses and cash flows should not be included in the consolidated financial statements of the ultimate parent, and

(c) where the member's revenue exceeds 50 million euros, the statements were prepared in accordance with an acceptable financial accounting standard or an authorised accounting standard.

(6) For the purposes of subsection (5) "relevant territory" means—

(a) if the ultimate parent filed a country-by-country report in the territory in which it is located, that territory, or

(b) if a country-by-country report is instead filed in another territory as a parent surrogate filing (within the meaning of the OECD's guidance on country-by-country reporting), that territory.

(7) For the purposes of this section "income tax accrued" is to be construed in accordance with—

(a) where legislation implementing the OECD's guidance on country-by-country reporting applies in the relevant territory, that legislation, or

(b) otherwise, that guidance.

(8) An election under this section in respect of a non-material member of a multinational group—

(a) must be made having effect for the first accounting period in which the Pillar Two rules apply to the member, and

(b) may not otherwise be made (and accordingly if the election is revoked it cannot be made again).

(9) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.

(10) But that paragraph has effect for the purposes of such an election as if—

(a) sub-paragraph (4) were omitted (so that there is no restriction on revoking the election), and

(b) sub-paragraph (5) were omitted (as an election under this section cannot be made again once revoked)."

(2) After section 251 insert—

"251A Meaning of country-by-country report

(1) In this Part "country-by-country report" means a country-by-country report in respect of a multinational group that is prepared in accordance with legislation implementing the OECD's guidance on country-by-country reporting.

(2) Reference to a country-by-country report in respect of a multinational group that is a multi-parent group is to a report in respect of all of the constituent groups.

(3) ""The OECD's guidance on country-by-country reporting"" means the guidance on country-by-country reporting contained in the Organisation for Economic Co-operation and Development ("OECD") Guidance on Transfer Pricing Documentation and Country-by-Country Reporting, published in 2014, as modified, supplemented or replaced from time to time."

(3) In section 276(b)(i), omit "and (8)".

(4) In Schedule 15 (elections), in paragraph 1(1), after paragraph (i) insert—

"(j) section 219A."

(5) In Schedule 16 (transitional provision), in paragraph 3—

(a) for sub-paragraph (7) substitute—

"(7) For the purposes of this Part of this Schedule, a country-by-country report in relation to a territory is "qualifying" if the information relating to the territory is prepared on the basis of qualified financial statements of the multinational group (see paragraph 4).", and

(b) omit sub-paragraph (8).

Joint ventures

37 In section 227 (application of Part to joint venture groups), in subsection (2) for "the multinational group" substitute "each multinational group".

Insurance investment entities

38 (1) Section 236 (investment funds and investment entities) is amended as follows.

(2) In subsection (2)—

(a) omit paragraph (b),

(b) for paragraph (c) substitute—

"(c) the income or gains the entity is designed to generate are intended to offset liabilities under insurance or annuity contracts;", and

(c) for paragraph (e) substitute—

"(e) regulated entities hold 100% of the ownership interests in it (see section 244 for how to calculate this)."

(3) After that subsection insert—

"(2A) An entity is a regulated entity if—

(a) the entity is subject to a regulatory regime in the territory in which it is established or managed, and

(b) that regime is specific to persons engaged in the business of entering into insurance or annuity contracts or of performing activities ancillary to such business."

Location of flow-through entities

39 In section 240 (location of flow-through entities), for subsection (1) substitute—

"(1) Where a flow-through entity would be a responsible member of a multinational group if the entity were located in the territory in which it is created, it is located in that territory."

Currency

40 (1) For section 254 (use of currency) substitute—

"254 Use of currency

(1) Calculations under this Part in relation to a multinational group, or any member of such a group, are to be carried out in the currency

of the consolidated financial statements of the ultimate parent ("the CFS currency").

(2) Where it is necessary to convert an amount into the CFS currency, that conversion is to be made in accordance with the authorised accounting standards—

(a) that were used in preparing the consolidated financial statements of the ultimate parent, or

(b) where no such statements were prepared, the authorised accounting standards that would have been used had such statements been prepared.

(3) For the purpose of comparing an amount to a figure expressed in this Part in euros, the amount is to be converted to euros for that purpose (from the CFS currency) by reference to the average exchange rate for the month of December that preceded the end of accounting period to which the amount relates.

(4) Where the European Central Bank publishes exchange rates for the CFS currency, use those rates for the purposes of the conversion under subsection (3).

(5) Otherwise—

(a) where the Bank of England publishes exchange rates for the CFS currency, use those rates for the purposes of that conversion, or

(b) where the Bank of England does not publish exchange rates for that currency, use such a rate as appears, on a just and reasonable basis, to reflect the average exchange rate for that month."

(2) In section 123 (amount charged by reference to "top-up amounts", for Step 4 substitute—

"Step 4

Convert the result of Step 3 (which in accordance with section 254 will be expressed in the CFS currency) to sterling using the average exchange rate for the accounting period (if the CFS currency is not sterling)."

Application of Pillar Two rules to members of a group

41 (1) In section 255 (meaning of Pillar Two rules)—

(a) after subsection (2) insert—

"(2A) Pillar Two rules apply to a member of a multinational group ("the relevant member") in an accounting period if conditions A, B and C are met.",

(b) in subsection (3)—

(i) for the words before paragraph (a) substitute "Condition A is met if—",

(ii) in paragraph (a), after "multinational group" insert "for the accounting period", and

(iii) in paragraph (b), after "multinational group" insert "for the accounting period", and

(c) after that subsection insert—

"(4) Condition B is that—

(a) the ultimate parent is subject to Pillar Two IIR tax for the accounting period,

(b) an intermediate parent member of the group is subject to Pillar Two IIR tax for the accounting period and has an ownership interest in—

(i) the relevant member, or

(ii) a member of the group located in the same territory as the relevant member, or

(c) any member of the group is located in a territory in which a qualifying undertaxed profits tax is in force for the accounting period.

(5) Condition C is that no transitional safe harbour election applies to the relevant member for that period.

(6) For the purposes of this Part "transitional safe harbour election" means—

(a) an election under paragraph 3(1) (transitional safe harbour), or

(b) an election corresponding to that election for the purposes of a tax imposed by a Pillar Two territory that is equivalent to multinational top-up tax so far as it relates to top-up tax under the IIR (within the meaning of the Pillar Two rules)."

(2) In paragraph 2 of Schedule 16 (intra-group transfers before entry into regime)—

(a) in sub-paragraph (1), for paragraph (b) substitute—

"(b) the Pillar Two rules do not apply to the transferor for the accounting period in which the transfer takes place (but in determining this, section 255(4) has effect as if sub-paragraph (ii) of paragraph (b) were omitted),

(ba) a qualifying domestic top-up tax does not apply in relation to the transferor for that period, and",

(b) in sub-paragraph (4)(b)—

(i) in the words before sub-paragraph (i), after "which" insert "the Pillar Two rules apply to the transferee.", and

(ii) omit sub-paragraphs (i) and (ii), and

(c) in sub-paragraph (6), in paragraph (a) of Step 2, for paragraph (a) substitute—

"(a) the ultimate parent had been located in the United Kingdom and the accounting period commenced on or after 31 December 2023, and".

(3) In paragraph 3 of that Schedule—

(a) in sub-paragraph (2)(c)(ii), for "applied to members" substitute "would, ignoring any transitional safe harbour election, have applied to any member", and

(b) omit sub-paragraph (4).

Qualifying domestic top-up tax not treated as accruing

42 (1) After section 256 insert—

"256A Qualifying domestic top-up tax treated as not accruing where contested etc

(1) Subsection (2) applies for the purposes of sections 194(2) to (7), 204(3) to (7) and 206(4) to (8) (application of QDT credits in determination of top-up amounts).

(2) An amount of qualifying domestic tax accruing to a member of a multinational group is to be treated as not accruing to the member where the enforceability of the amount is in question.

(3) For the purposes of this section, the enforceability of an amount of qualifying domestic top-up tax accruing to a member of a multinational group is in question if—

(a) the member disputes its enforceability on any of the grounds set out in subsection (4), or

(b) the tax authority of the territory in which the qualifying domestic top-up tax is imposed considers the amount unenforceable on the basis of any of those grounds.

(4) Those grounds are that—

(a) the amount is unenforceable on constitutional grounds or as a result of other superior law applying in the territory in which the qualifying domestic top-up tax is imposed, or

(b) the amount is unenforceable as a result of a specific agreement with the government of that territory as to the tax liability of the member or the group.

(5) Subsection (2) ceases to apply where the enforceability of an amount of qualifying domestic top-up tax ceases to be in question.

(6) Where the enforceability of an amount of qualifying domestic top-up tax was in question, it ceases to be in question where—

(a) the amount has been paid, and

(b) the enforceability of the amount may no longer be disputed as a result of—

(i) a settlement,

(ii) the time for any appeal having passed and there being no reasonable prospect of the time being extended, or

(iii) the exhaustion of any rights to appeal."

(2) In section 194 (total top-up amount for a territory), in subsection (3), for "section 256" substitute "sections 256 and 256A".

(3) In section 194 (total top-up amount for a territory), in subsection (3), for "section 256" substitute "sections 256 and 256A".

Domestic top-up tax: investment entities

43 In section 272 (determining top-up amounts of entity that is a member of a group), after subsection (8) insert—

"(9) Subsection (10) applies to qualifying entities that are standard members of a group for an accounting period where—

(a) the total top-up amount referred to in section 193 for that period is greater than nil (as a result of the modification of that section set out in subsection (8)(e)), and

(b) none of those members have made a profit for that period (and accordingly will not, ignoring subsection (10), have top-up amounts).

(10) Where this subsection applies, each of those members has a top-up amount (for the purposes of domestic top-up tax) equal to the total top-up amount divided by the number of qualifying entities that are standard members of the group."

Domestic top-up tax: effect of becoming subject to Pillar Two rules

44 (1) After section 273 (in Part 4) insert—

"273A References to Pillar Two rules

(1) The provisions mentioned in subsection (2) apply to a qualifying entity, for domestic or domestic entity purposes, as if the references to the first accounting period for which the Pillar Two rules apply were to the first accounting period for which the entity is a qualifying entity.

(2) Those provisions are—

(a) section 185;

(b) section 187;

(c) section 219A;

(d) sub-paragraph (4) of paragraph 2 of Schedule 16 (but see also section 276(c)(iii) which omits that paragraph in the case of a qualifying entity that is not a member of a group).

273B Effect of becoming subject to Pillar Two rules

(1) This section applies where the Pillar Two rules did not apply to a qualifying entity for one or more accounting periods (each a "pre-Pillar Two period").

(2) Where—

(a) the entity has a recaptured deferred tax liability arising as a result of section 184 (recaptured deferred tax liabilities),

(b) the initial period, in relation to that liability, is a pre-Pillar Two period, and

(c) the first accounting period in which the Pillar Two rules apply to the entity is earlier than the sixth accounting period after the initial period,

section 184(2) (recalculation in initial period taking account of recaptured deferred tax liability) does not apply in relation to that recaptured deferred tax liability.

(3) Where an election under section 187 (election for losses to be treated as special loss deferred tax assets) applied to the entity in a pre-Pillar Two period—

(a) the election ceases to have effect for the first accounting period in which the Pillar Two rules apply, and

(b) subsection (2)(b) of section 187 does not apply to prevent the making of an election under section 187 that applies to the entity and that has effect for that period, but

(c) no remaining amount of special loss deferred tax assets that arose in a pre-Pillar Two period may be used in that first accounting period or any subsequent accounting period.

(4) Subsection (5) or (6) (as the case may be) applies where—

(a) a deferred tax asset arises to the entity in a pre-Pillar Two period,

(b) section 185(7)—

(i) applies to that asset for the purposes of multinational top-up tax, or

(ii) would, ignoring subsection (5) below, apply to that asset for those purposes, and

(c) the asset is reflected in a collective additional amount for the purposes of domestic top-up tax.

(5) Where—

(a) an election has been made under section 205 (election to carry forward) in relation to the collective additional amount,

(b) the subtraction required by subsection (2)(a) of that section has not occurred in a pre-Pillar Two period,

(c) the amount to be subtracted as a result of that subsection is to be reduced by so much of that amount as reflects the asset.

(6) Otherwise, section 185(7) does not apply to the asset for the purposes of multinational top-up tax to the extent it was reflected in a collective additional amount for the purposes domestic top-up tax."

(2) In section 276 (application of transitional provision)—

(a) after paragraph (a) insert—

"(aa) where a qualifying member is a member of a group, for paragraph 3(2)(c) there were substituted—

"(c) the election has been made in respect of the territory for each preceding accounting period that commenced on or after 31 December 2023—

(i) in which the Pillar Two rules would, ignoring any transitional safe harbour election, have applied to any member of the group in the territory, and

(ii) in which any member of the group is a qualifying entity for the purposes of domestic top-up tax,",", and

(b) in paragraph (c), after sub-paragraph (iii) insert—

"(iiia) for paragraph 3(2)(c) there were substituted—

"(c) the election has been made in respect of the territory for each preceding accounting period that commenced on or after 31 December 2023 in which the member was a qualifying entity for the purposes of domestic top-up tax,",".

Overpaid tax

45 (1) Schedule 14 is amended as follows.

(2) In paragraph 51 (claims in relation to overpaid tax)—

(a) in sub-paragraph (5)—

(i) omit the words from "otherwise" to "paragraph,", and

(ii) after "due" insert "otherwise than—

(a) pursuant to a claim under this paragraph, or

(b) in accordance with another provision of this Schedule.", and

(b) omit sub-paragraphs (6) and (7).

(3) After paragraph 33 insert—

"33A (1) Where a person has paid an amount that has been paid by way of multinational top-up tax but the amount is not due, the amount incurs interest at the rate provided for in regulations made under section 178 of FA 1989 from the later of—

(a) the day after the latest day (under paragraph 32) by which the amount paid would have been required to be paid as multinational top-up tax if it were due, and

(b) the day on which the amount was paid.

(2) See paragraph 51 for provision about making claims for the repayment of an amount that is not tax that was due (but see also paragraph 52 which, for example, prevents such a claim being made where an amendment to an assessment can be, or could have been, made)."

Intragroup transfers before entry into regime

46 (1) Paragraph 2 of Schedule 16 (intra-group transfers before entry into regime) is amended as follows.

(2) In sub-paragraph (3)(b), after "limited to" insert "the lesser of the cap amount and the sum of—

(i) the value of deferred tax assets that arose in relation to the assets before their transfer, and

(ii)".

(3) After that sub-paragraph insert—

"(3A) For the purposes of determining the value of a deferred tax asset under sub-paragraph (3)(b)(i)—

(a) if the rate of tax in relation to that asset is greater than 15%, the value is to be adjusted so that it reflects the value it would be if the rate had been 15%, and

(b) exclude the impact of any valuation adjustments or accounting recognition adjustments."

(4) In sub-paragraph (5)(b), for "is" substitute ", and the value of deferred tax assets that arose in relation to the assets before their transfer, are".

(5) For sub-paragraph (7) substitute—

"(7) In determining the tax expense of the transferor in relation to the transfer of the assets—

(a) where any loss arising in the accounting period in which the transfer took place is offset against any taxable gain arising on the transfer, ignore that offsetting, and

(b) exclude the impact of any valuation adjustments or accounting recognition adjustments."

(6) In sub-paragraph (9)—

(a) for ", ignoring sub-paragraph (7)," substitute "the sum of the",

(b) for "in relation to the transfer of assets would exceed" substitute "and the value of deferred tax assets that arose in relation to the assets before their transfer is greater than", and

(c) omit "in relation to it".

(7) In sub-paragraph (11), for "substantially the same economic effect as" substitute "a similar effect for accounting purposes to".

Transitional safe harbour

47 (1) Part 2 of Schedule 16 (transitional safe harbour) is amended as follows.

(2) In paragraph 3, for sub-paragraph (1) substitute—

"(1) The filing member of a multinational group may make a transitional safe harbour election for an accounting period in respect of a territory.

(1A) The effect of the election is that all of the standard members of the group located in the territory are to be treated as not having top-up amounts or additional top-up amounts for the purpose of determining the liability of any member of the group to multinational top-up tax."

(3) In paragraph 6(6), for "if" substitute "unless".

Transitional reporting election

48 (1) In Schedule 16 (transitional provision), at the end insert—

"PART 3

TRANSITIONAL REPORTING ELECTION

Transitional reporting election

14 (1) HMRC may publish a notice that provides for alternative requirements for the information that must be contained in an information return in respect of members of a multinational group to which an election under sub-paragraph (3) applies.

(2) Where—

(a) HMRC have published a notice under paragraph (1) containing alternative requirements, and

(b) an election under sub-paragraph (3) applies to members of a multinational group for an accounting period,

paragraph 10 of Schedule 14 applies to the filing member of the group for that period subject to the notice.

(3) An election under this sub-paragraph—

(a) is to be made in respect of all of the members of a multinational group in a territory,

(b) is to be made by the filing member of the group,

(c) may only have effect in relation to an accounting period that begins on or before 31 December 2028 and ends before 1 July 2030, and

(d) may only be made if condition A, B or C is met.

(4) Condition A is that none of the members in the territory have top-up amounts or additional top-up amounts for the accounting period to which the election is to apply.

(5) Condition B is that—

(a) there is only one responsible member responsible for all of the members in the territory for the accounting period to which the election is to apply, and

(b) the sum of amounts attributed under Chapter 7 of Part 3 to that responsible member for that period in respect of those members' top-up amounts and additional top-up amounts is equal to the sum of the members' top-up amount and additional top-up amounts.

(6) Condition C is that—

(a) there is more than one responsible member responsible for the members of the group in the territory for the accounting period to which the election is to apply, and

(b) each responsible member is responsible for every member of the group in the territory and has the same inclusion ratio for each member it is responsible for.

(7) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this paragraph."

(2) In Schedule 15 (elections), in paragraph 2(1), after paragraph (j) insert—

"(k) paragraph 14 of Schedule 16;".

Qualifying domestic top-up tax safe harbour

49 (1) After Schedule 16 insert –

"SCHEDULE 16A

Section 260

MULTINATIONAL TOP-UP TAX: SAFE HARBOURS

PART 1

QUALIFYING DOMESTIC TOP-UP TAX SAFE HARBOUR

CHAPTER 1

QUALIFYING DOMESTIC TOP-UP TAX SAFE HARBOUR ELECTION

Election for qualifying domestic top-up tax safe harbour

1 (1) The filing member of a multinational group may make a qualifying domestic top-up tax safe harbour election for an accounting period in respect of a territory.

(2) The effect of the election is that all of the standard members of the group located in the territory are to be treated as not having top-up amounts or additional top-up amounts for the purpose of determining the liability of any member of the group to multinational top-up tax.

(3) An election may only be made for an accounting period if –

(a) a qualifying domestic top-up tax applies in that territory for that period,

(b) that tax is accredited for the purposes of the election (see paragraph 2), and

(c) none of the disqualifying conditions in paragraph 3 apply for that period.

(4) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this paragraph.

Accredited qualifying domestic top-up tax

2 A qualifying domestic top-up tax is accredited for the purposes of an election under paragraph 1 if that tax is specified as such in regulations made by the Treasury.

Disqualifying conditions

3 (1) Conditions A to D are disqualifying conditions for the purposes of paragraph 1(3)(c) in relation to a multinational group and a territory.

(2) Condition A is that –

(a) the ultimate parent is located in the territory,
(b) the ultimate parent is a flow-through entity, and
(c) the qualifying domestic top-up tax applying in the territory does not impose a charge on an ultimate parent that is a flow-through entity in any circumstance.

(3) Condition B is that—
(a) a responsible member of the group is located in the territory,
(b) the member is not the ultimate parent of the group,
(c) the member is a flow-through entity, and
(d) the qualifying domestic top-up tax applying in the territory does not impose a charge on a responsible member of a multinational group that is a flow-through entity in any circumstance.

(4) Condition C is that—
(a) the qualifying domestic top-up tax applying in the territory provides that it does not apply to a multinational group in the initial phase of the group's international expansion,
(b) that provision is not limited in application to circumstances where the members of a multinational group in the territory are not subject to Pillar Two rules, and
(c) that provision applies to the group.

(5) Condition D is that the enforceability of an amount of qualifying domestic top-up tax accruing to a standard member of the group is in question.

(6) Subsections (3), (4) and (6) of section 256A (qualifying domestic top-up tax treated as not accruing where contested) apply for the purpose of determining whether the enforceability of an amount of qualifying domestic top-up tax is in question.

CHAPTER 2

APPLICATION TO NON-STANDARD MEMBERS OF A MULTINATIONAL GROUP

Application in the case of joint venture group

4 (1) For the purpose of applying Chapter 1 of this Part of this Schedule to a joint venture group (see section 227 which applies this Schedule generally, with modifications, to joint venture groups), that Chapter has effect as if in paragraph 3—
(a) in sub-paragraph (1), for "Conditions A to D" there were substituted "Conditions A to E",

(b) after sub-paragraph (6), there were inserted—

"(7) Condition E is that the qualifying domestic top-up tax applying in the territory does not impose a charge on members of a joint venture group."

(2) For that purpose ignore section 227(1)(a) (reference to ultimate parent treated as reference to joint venture parent).

(3) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of joint venture members of a joint venture group in a territory.

Application in the case of investment entities

5 (1) Chapter 1 of this Part of this Schedule to applies to investment entities and has effect for that purpose as if—

(a) references to standard members of a multinational group were to members of the group that are investment entities, and

(b) in paragraph 3—

(i) in sub-paragraph (1), for "Conditions A to D" there were substituted "Conditions A to E",

(ii) after sub-paragraph (6), there were inserted—

"(7) Condition E is that the qualifying domestic top-up tax applying in the territory does not impose a charge on investment entities."

(2) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of members of the group that are investment entities.

Application in the case of minority owned members

6 (1) Chapter 1 of this Part of this Schedule to applies to minority owned members of a multinational group and has effect for that purpose as if references to standard members of a multinational group were to members of the group that are minority owned members.

(2) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of minority owned members of the group."

(2) In section 227 (application of Part to joint venture groups), in subsection (1), in the words before paragraph (a), for "Schedule 16" substitute "Schedules 16 and 16A".

(3) For section 260 (transitional provision) substitute—

"260 Transitional provision and safe harbours

(1) Schedule 16 contains transitional provision and provision about a general transitional safe harbour.

(2) Schedule 16A contains provision about other safe harbours."

(4) In Schedule 15 (elections), in paragraph 2(1), after paragraph (k) (as inserted by paragraph 48(2) of this Schedule) insert—

"(l) paragraph 1 of Schedule 16A."

Minor corrections and clarifications

50 (1) In section 127(12) (excluded entities) for "pensions service" substitute "pension services".

(2) In section 128 (responsible members)—

(a) in subsection (2)—

(i) for "its members" substitute "the members of the group", and

(ii) for "it" substitute "the ultimate parent", and

(b) in subsection (7)—

(i) in the words before paragraph (a), after "tax" insert "for an accounting period",

(ii) in paragraph (a), at the beginning insert "the period commences on or after 31 December 2023 and", and

(iii) in paragraph (b), in sub-paragraph (i), after "force" insert "for the period".

(3) In section 131(1) (whether de-merged groups meet the revenue threshold), omit "if" in the third and fourth places it occurs.

(4) In section 138(1) (profits adjusted to be before tax), omit "its".

(5) In section 140 (profits adjusted to be profits before certain purchase accounting adjustments)—

(a) in subsection (2), for "shares" substitute "ownership interests", and

(b) in subsection (3), for "shares" substitute "ownership interests".

(6) In section 150 (tax treatment of transactions between members of a multinational group), in subsection (6)—

(a) in paragraph (a), for "in the territory in which the member is located" substitute "that applies to the member", and

(b) in paragraph (b), for "that territory" substitute "the territory in which the member is located".

(7) In section 185(2)(a) (inclusion of existing deferred tax assets and liabilities on entry into regime), after "asset" insert "or liability".

(8) In section 187 (election for losses to be treated as special loss deferred tax assets), in subsection (6), in the words after paragraph (b), for "where subsection (5) applies" substitute "in which the election has effect".

(9) In section 197 (eligible tangible asset amount)—

(a) for subsection (1) substitute—

"(1) To determine the eligible tangible asset amount of a member of a multinational group for an accounting period—

(a) add together—

(i) the sum of the recorded carrying values of each eligible tangible asset held by the member at the start of the period, and

(ii) the sum of the recorded carrying values of each eligible tangible asset held by the member at the end of the period, and

(b) divide the result of paragraph (a) by 2.", and

(b) omit subsection (2).

(10) In section 201 (inclusion ratio)—

(a) in subsection (1), in Step 2, after "held by" insert "individuals and", and

(b) in subsection (2)—

(i) after "held by" insert "individuals and", and

(ii) after "such" insert "individuals and".

(11) In section 220(3) (top-up amount of investment entity) for "section 33(2)" substitute "that Chapter".

(12) In section 221(4) (substance based income exclusion for investment entity), for "Schedule 12" substitute "Schedule 14".

(13) In section 229(3) (multi-parent groups), for "section 127(3)" substitute "section 128(3)".

(14) In section 235(1)(b) (pension funds and pension services entities), at the beginning insert "it is".

(15) In section 244 (calculating percentage ownership interests of a specific entity or individual), in subsection (2)(a), after "by" insert "an individual or by".

(16) In section 245 (calculating percentage ownership interests: excluded entities), in subsection (2), after "Where" insert "an individual or".

(17) In section 246(1)(b)(ii) (calculating percentage direct and indirect ownership interests) for "E" substitute "F";

(18) In section 248 (exclusion of indirect interests held through ultimate parent), after "entity" insert "or individual".

(19) In section 252(3) (application to sovereign wealth funds), for "government" substitute "governmental".

(20) In section 259 (other definitions), in subsection (1)—

(a) at the appropriate place insert—

""deemed distribution" has the meaning given by section 215(4)(c);", and

(b) in the definition of "tax treaty", for "agreement for" substitute "international agreement for, or provision of an international agreement concerned with,".

(21) In section 271 (election to make one member of a group liable for amounts charged)—

(a) in subsection (1) for "responsible" substitute "elected",

(b) in subsection (2) for "responsible", in both places it occurs, substitute "elected", and

(c) in subsection (3) for "responsible" substitute "elected".

(22) In section 273, in subsection (4)—

(a) in the words before paragraph (a), after "domestic" insert "entity", and

(b) after paragraph (p), insert—

"(pa) in section 173 (covered taxes), subsection (1)(b);".

(23) In Schedule 14 (administration)—

(a) in paragraph 34(2), for "the time the liability to tax arose" substitute "any time in the accounting period to which the amount payable relates", and

(b) in paragraph 37—

(i) in sub-paragraph (4)(b), after "for" insert "income tax or", and

(ii) in sub-paragraph (6), for "payer" substitute "payee".

(24) In Schedule 15 (elections)—

(a) in paragraph 1(1), after paragraph (a) insert—

"(aa) section 141(7);", and

(b) in paragraph 2(1)—

(i) after paragraph (e) insert—

"(ea) section 199;", and

(ii) after paragraph (f) insert—

"(fa) section 216;".

(25) In Schedule 16 (multinational top-up tax: transitional provision), in paragraph 10—

(a) the existing words become sub-paragraph (1),

(b) in the words before paragraph (a) of that sub-paragraph—

(i) for "section 226" substitute "section 227", and

(ii) after "groups)" insert ", that Chapter has effect as if",

(c) in paragraph (a) of that sub-paragraph, for "3(2)(c)" substitute "3(2)(b)", and

(d) after that sub-paragraph insert—

"(2) For that purpose ignore section 227(1)(a) (reference to ultimate parent treated as reference to joint venture parent).

(3) Accordingly, the filing member of a multinational group may make a separate transitional safe harbour election in respect of joint venture members of a joint venture group in a territory."

(26) In Schedule 17 (index of defined expressions)—

(a) in the definition of "government entity", for "government" substitute "governmental";

(b) in the definition of "pensions services entity" for "pensions" substitute "pension".

Definitions

51 In Schedule 17 (index of defined expressions), in the table, at the appropriate places insert—

"CFS currency	section 254(1);
"country-by-country report	section 251A";
"revenue	section 129(6)";
"transitional safe harbour election	section 255(6)".

Commencement

52 The amendments made by this Part of this Schedule have effect for accounting periods commencing on or after 31 December 2023.